

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-RJK

**NORFOLK SOUTHERN RAILWAY
COMPANY, *et al.*,**

Defendants.

**NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY’S
MOTION TO DISMISS ALL REMAINING CLAIMS FOR RELIEF**

Defendant Norfolk and Portsmouth Belt Line Railroad Company (“Belt Line”), by counsel, pursuant to Rules 12(h)(3), 12(c), and 15 U.S.C. § 26, following this Court’s grant of summary judgment at ECF 559, moves to dismiss all remaining claims for relief in this case for (i) lack of subject matter jurisdiction under Rule 12(h)(3) and/or (ii) lack of authority to grant them under Rule 12(c), as all such claims seek injunctive relief against common carriers subject to the jurisdiction of the Surface Transportation Board. Under 15 U.S.C. § 26, in an antitrust case, a federal district court has no authority to grant “injunctive relief against any common carrier subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49.” The Belt Line is mindful of the trial date on January 18, 2023 and is filing this motion as soon as practical after receiving the Court’s opinion on January 3, 2023, evaluating the remaining relief, consulting railroad regulatory counsel, and analyzing applicable law.

In support thereof, the Belt Line submits the accompanying brief.

Dated: January 9, 2023

NORFOLK AND PORTSMOUTH
BELT LINE RAILROAD COMPANY

By: /s/ W. Ryan Snow

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CERTIFICATE OF SERVICE

I certify that on this 9th day of January 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a “Notice of Electronic Filing” to all counsel of record who have consented to electronic service.

/s/ W. Ryan Snow

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